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Counsel to the Official Committee of Tort Claimants

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION

-and-

**PACIFIC GAS AND ELECTRIC
COMPANY,**
Debtors.

- ☐ Affects PG&E Corporation
- ☐ Affects Pacific Gas and Electric Company
- ☒ Affects both Debtors

**All papers shall be filed in the Lead Case,
No. 19-30088 (DM)*

Bankruptcy Case
No. 19-30088 (DM)
Chapter 11
(Lead Case)
(Jointly Administered)

**DECLARATION OF JOHN H.
MACCONAGHY IN SUPPORT OF THE
APPLICATION OF THE OFFICIAL
COMMITTEE OF TORT CLAIMANTS
PURSUANT TO 11 U.S.C. § 1103 AND
FED. R. BANKR. P. 2014 AND 5002 TO
RETAIN AND EMPLOY
MACCONAGHY & BARNIER, PLC AS
SPECIAL COUNSEL EFFECTIVE AS
OF APRIL 23, 2020**

Date: May 27, 2020
Time: 10:00 a.m. (Pacific Time)
Place: **Telephonic Appearances Only**
United States Bankruptcy Court
Courtroom 17, 16th Floor
San Francisco, CA 94102
Objection Deadline: May 20, 2020
4:00 p.m. (Pacific Time)

1 I, John H. MacConaghy, state:

2 1. I am a principal of MacConaghy & Barnier, a Professional Law corporation
3 (“**M&B**”), and I am authorized to practice before this Court.

4 2. I submit this Declaration in support of the Application (the “**Application**”) of the
5 Official Committee of Tort Claimants (the “**TCC**”) of PG&E Corporation and Pacific Gas and
6 Electric Company (collectively the “**Debtors**”) for the entry of an order authorizing the TCC to
7 retain and employ M&B as the TCC’s special conflicts counsel effective as of April 23, 2020
8 pursuant to section 1103 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules
9 2014 and 5002 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and in
10 accordance with the terms and conditions set forth in the engagement letter between the TCC and
11 M&B dated April 27, 2020 (the “**Engagement Letter**”). A copy of the Engagement Letter is
12 attached hereto as **Exhibit A**. The TCC has requested that M&B advise and represent the TCC and
13 its members with respect to certain matters in which its primary counsel, Baker & Hostetler LLP
14 (“**Baker**”), has an actual or potential conflict of interest.

15 3. I received my J.D. from the University of California, Hastings College of Law in
16 1978, and was admitted to the California bar in November of that year. Since 1983, my practice
17 has focused primarily bankruptcy and insolvency matters; and for the last 25 years over half of my
18 practice has consisted of representing Chapter 7 and Chapter 11 Trustees and other court-appointed
19 fiduciaries. I have been “av” rated in the Martindale-Hubbell legal directory since 1985, and since
20 1995 have been a Certified Specialist in Bankruptcy Law by the California State Bar Board of Legal
21 Specialization. I will be the professional at M&B principally responsible for providing the services
22 requested by the TCC.

23 4. M&B is a business bankruptcy boutique law firm. Its attorneys collectively have
24 more than fifty (50) years of bankruptcy experience. With respect to M&B’s qualifications to
25 provide the specific services requested of us by the TCC, in our capacity as Court-appointed counsel
26 for Chapter 11 and Chapter 7 Trustees, we have prepared, filed, and consummated several hundred
27 Rule 2004 subpoenas, including several matters involving complex electronically stored
28 information, privilege issues, alleged trade secrets, and other discovery disputes.

1 5. Additionally, M&B has served as Court-appointed counsel for the Official
2 Committees of Unsecured Creditors in the following Chapter 11 cases filed in the Northern District
3 of California, *In re Credit West Corporation*, *In re The Legacy Estate Wine Group* (co-counsel), *In*
4 *re Railways, Inc.*, and *In re Associated Vintage Group, Ltd.* M&B has also successfully litigated
5 numerous adversary proceedings on behalf of Court-appointed fiduciaries for bad faith denial of
6 insurance coverage, legal malpractice, securities fraud, breach of fiduciary duty, and Chapter 5
7 avoidance claims. I have been lead counsel in a number of published Ninth Circuit decisions
8 including *In re Warren*, 568 F.3d 1113 (9th Cir. 2009); *In re Carraher*, 971 F.2d 327 (9th Cir.
9 1992); and *In re Marino*, 813 F.2d 1562 (9th Cir. 1987), as well as numerous published BAP and
10 District Court appellate decisions. I regularly lecture at approved CLE programs on a variety of
11 bankruptcy litigation topics.

12 6. Based on the foregoing, I believe M&B is well qualified to represent the TCC on
13 the special matters on which M&B has been retained in the Debtors' cases (the "**Cases**").

14 7. In connection with its proposed retention by the TCC in the Cases, M&B performed
15 a conflict search. M&B obtained from the TCC and/or its representatives the names of individuals
16 and entities that may be parties in interest (individually a "**Potential Party in Interest**" and
17 collectively the "**Potential Parties in Interest**") in the Cases. I reviewed the name of each Potential
18 Party in Interest to determine the names of each Potential Party in Interest that has entered into
19 engagement agreements with M&B in the last two years. Additionally, where the review *did not*
20 produce a name identical to the name of Potential Party In Interest but *did* produce a name that
21 could potentially be an affiliate of a Potential Party in Interest or associated with a Potential Party
22 in Interest by virtue of name similarity, I also identified and disclosed relationships with any such
23 Potential Party in Interest.

24 8. In several instances, the names on the list of Potential Parties in Interest were very
25 common and/or generic. As such, it was not possible to identify with certainty whether M&B has
26 any client relationship to disclose for those specific names.

27 9. M&B's conflict search revealed the following:
28

- 1 • Neither I, nor any other principal or employee of M&B has represented the above-
- 2 named Debtors, nor any of its “affiliates,” or other “insiders” on any matter.
- 3 • M&B currently represents Timothy W. Hoffman, Chapter 7 Trustee of the *Estate of*
- 4 *Sonoma West Medical Center, Inc., fdba Palm Drive Hospital*, U.S. Bank. Ct. N.D.
- 5 Cal. Case No. 18-10665 RLE. In his capacity as Chapter 7 Trustee of that estate,
- 6 Mr. Hoffman holds a Proof of Claim against the Debtors’ estates in the amount of
- 7 \$100,000 for business interruption loss arising out of the 2017 North Bay wildfires.
- 8 • M&B previously represented the Individual Plaintiffs’ Executive Committee
- 9 Appointed by the California Superior Court in the *North Bay Fire Cases*, Judicial
- 10 Counsel Coordination Proceeding No. 4955 in connection with its efforts to
- 11 organize the TCC.
- 12 • M&B has represented numerous trustees, debtors, and Court-appointed committees
- 13 in other bankruptcy cases where one or both of the Debtors was a creditor.
- 14 • From 2014 through 2017, M&B represented Sonoma Valley Bancorp in its
- 15 dissolution and winding up. For a portion of that engagement, Tobias Keller of
- 16 Keller Benvenuti Kim LLP served as the Chief Administrative Officer of the
- 17 corporation;
- 18 • From 2004 through 2010, M&B represented Great American Insurance Company,
- 19 an insurer of the Debtors, in its capacity as a creditor in two wholly unrelated
- 20 individual bankruptcy cases filed in the Northern District of California;
- 21 • In 2010, M&B represented Winston & Strawn, an “ordinary course” counsel for the
- 22 Debtors, in its capacity as a party in interest in a wholly unrelated bankruptcy case
- 23 in the Northern District of California;
- 24 • M&B has represented various clients in wholly unrelated matters who have filed
- 25 civil actions directly against certain insurers of the Debtors; *e.g.*, National Union
- 26 Insurance Company of Pittsburgh, PA, and other clients who have filed civil actions
- 27 against parties insured by other insurers of the Debtors;
- 28

- M&B has represented various clients in wholly unrelated bankruptcy matters where certain banks, creditors, regulatory entities, and other parties in interest identified on the Retention Checklist have been creditors;
- M&B has acted as co-counsel, opposed, referred legal matters to, and has been referred legal matters by various attorneys for parties in interest in this case on wholly unrelated matters; and
- My daughter, Pierce MacConaghy, is currently a second year law student and has accepted a position as a 2020 summer associate at the Palo Alto office of Simpson Thacher Bartlett LLP, counsel for some or all of the Debtors' Board of Directors in this Chapter 11 case and related litigation.

10. Except as set forth above, M&B has not represented any interest adverse to the Debtors and no principal or employee of M&B has, or has ever had, any connection or material relationship with the Debtors, its creditors, any other party in interest, their respective attorneys or accountants, the United States Trustee, any person employed in the Office of the United States Trustee, the Judges of this District, or their staff. M&B has not represented any interest adverse to the Debtors' estates with respect to the matters upon which M&B is to be employed by the TCC.

11. No principal or employee of M&B has entered into any agreement with any party in interest concerning the compensation of M&B for the services to be rendered to the TCC, other than as set forth in the TCC's Application.

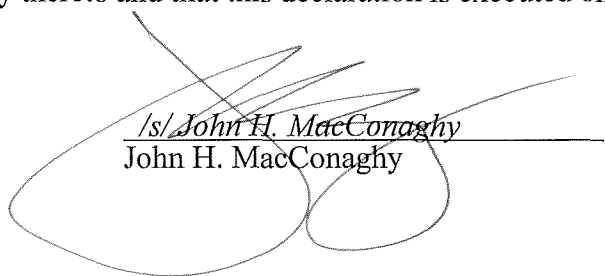
12. I have reviewed the "Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. Section 330 by Attorneys in Larger Chapter 11 Cases, effective as of November 1, 2013," and have the responses set forth below to the questions in Paragraph D.1.:

- a) M&B has not varied its standard hourly rates or customary billing arrangements for this engagement;
- b) M&B does not vary its rates based on geographic locations of the bankruptcy case;

- 1 c) M&B has not previously represented the TCC or any of its individual
2 members; and
3 d) M&B has advised the TCC that this matter will be staffed primarily by John
4 H. MacConaghy. M&B's normal hourly rates for its attorneys range from
5 \$475.00 to \$525.00; its normal hourly rates for paraprofessionals range from
6 \$200.00 to \$250.00. . Mr. MacConaghy's normal hourly rate is \$525.00.
7 M&B has been unable to submit a budget for its services at this time, due to
8 the uncertainty of the difficulty in procuring the discovery which is the
9 subject of its services. However, M&B understands that the TCC, the Court,
10 the Office of the United States Trustee, the Fee Examiner and other parties
11 in interest will maintain active oversight of M&B's billing practices.

12 14. M&B carries legal malpractice insurance to protect its clients in the unlikely event
13 of a negligent act or omission by the firm.

14 I declare under penalty of perjury under the laws of the United States that the foregoing is
15 true and correct, that I have personal first-hand knowledge thereto, that if called as a witness, I
16 could and would testify competently thereto and that this declaration is executed on April 28, 2020,
17 at Sonoma, California.

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19 /s/ John H. MacConaghy
20 John H. MacConaghy
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